

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JESSE ADAMS,	:	No. 4:06-cv-00386
	:	
Petitioner,	:	(Judge McClure)
	:	
v.	:	(Magistrate Judge Smyser)
	:	
WARDEN RONNIE HOLT,	:	
	:	
Respondent.	:	

O R D E R

July 27, 2006

BACKGROUND:

On February 21, 2006, pro se petitioner Jesse Adams filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. The matter was initially referred to United States Magistrate Judge J. Andrew Smyser.

On July 7, 2006, Magistrate Judge Smyser issued an eight-page report and recommendation. (Rec. Doc. No. 19.) On July 25, 2006, the court received what we construe as petitioner's objections to the report and recommendation.

For the following reasons, we will adopt the magistrate judge's report and recommendation in full, dismiss the petition, deny petitioner's motion for summary judgment, and direct the clerk to close the case file.

DISCUSSION:

As the magistrate judge ably recited the facts of the case, we find it unnecessary to repeat the details of that discussion here. Petitioner is currently serving a 21-month sentence imposed by the United States Parole Commission (“USPC”) for violating the conditions of parole. Petitioner is also serving two 22-month sentences imposed by the Superior Court of the District of Columbia, one for unauthorized use of a vehicle, and one for first degree theft. The two 22-month sentences imposed by the Superior Court were ordered to run concurrently as to each other, but consecutively to any other sentence. Therefore, the BOP has calculated petitioner’s aggregate term of imprisonment to be 43 months.

As the magistrate judge noted, the petition in this case is difficult to interpret. The gravamen of petitioner’s claim is that the BOP has improperly failed to credit his sentence with time spent in custody on an unrelated charge in Prince George’s County, Maryland. Ultimately, the petition has been construed as raising five claims:

1. The BOP failed to give petitioner credit toward his sentence for the time spent in custody in Prince George’s County;
2. USPC regulations require that petitioner be granted credit for the time he has served on his new sentence (the sentence imposed by the Superior Court of the District of Columbia);

3. The USPC denied petitioner due process by incorrectly calculating his salient factor score;
4. The USPC denied petitioner due process and violated its own regulations by failing to hold a timely probable cause hearing after petitioner's arrest;
5. The USPC violated petitioner's due process rights by revoking his supervised release before the disposition of his new criminal charges in the Superior Court of the District of Columbia.

We agree with the magistrate judge that the petition should be dismissed as to claim (1), for the reasons set forth in the report and recommendation. In sum, because the time petitioner spent in the Maryland state jail was unrelated to the offense for which he was sentenced (and is currently serving time), petitioner is not entitled to credit towards his sentence for that time.

Claims (2) through (5) relate to actions taken by the United States Parole Commission. Respondent argued, and the magistrate judge agreed, that petitioner failed to exhaust his administrative remedies with respect to those claims. It is this finding that petitioner appears to object to with his filing received by the court on July 25, 2006. (Rec. Doc. No. 20.)

Petitioner's filing of July 25, 2006 is simply a compendium of administrative grievances filed by petitioner regarding his sentence computation and issues regarding credit for time spent in custody in Prince George's County. Petitioner

neither alleges nor provides documentation suggesting that he exhausted his administrative remedies with regard to claims (2) through (5). Therefore, for the reasons set forth by the magistrate judge, the petition will be dismissed as to claims (2) through (5).

Petitioner's motion for summary judgment will also be denied.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The Report and Recommendation of United States Magistrate Judge J. Andrew Smyser is approved and adopted in full. (Rec. Doc. No. 19.)
2. Petitioner's motion for summary judgment is denied. (Rec. Doc. No. 3.)
3. The petition for a writ of habeas corpus is dismissed.
4. The clerk is directed to close the case file.

s/ James F. McClure, Jr.
James F. McClure, Jr.
United States District Judge